

REMARKS

The Examiner is thanked for the due consideration given the application. Claims 1-24 are pending in the present application. The Examiner has prematurely withdrawn claims 16-20 from consideration. Claims 1, 6, 11 and 20 have been amended to improve their language in a non-narrowing fashion. No new matter is believed to be added to the application by this Reply.

The Examiner has required election in the present application between:

Group I, claims 1-15, drawn to a cyanine dye and a method of using them; and

Group II, claims 16-20, drawn to a method for monitoring a real time PCR reaction using a dye.

It is respectfully noted that no Restriction/Election requirement has been made for claims 21-24.

On May 22, 2006, Group I, claims 1-15, was provisionally elected with traverse.

For the purpose of examination of the present application, Applicants affirm the election, with traverse, of Group I, Claims 1-15.

First, this application is a continuation of PCT/SEO2/00860 (WO 02/090443), in which unity of invention was found. The Examiner is respectfully directed to PCT Article 27(1), which sets forth that no national law shall require compliance with requirements relating to the international application different or additional to those provided for in the PCT and its regulations.

Second, as set forth in Section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for restriction:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the restriction is not required.

Applicants respectfully submit that a serious burden has not been placed on the Examiner to consider all of the claims in a single application. A review of the subject matter set forth in the claims would have an overlapping search. Thus a different field of search really does not exist with regard to the claims of the present application.

Accordingly, rejoinder and examination of all the claims on the merits is respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1-15 have been rejected under 35 U.S.C. §112, Second paragraph as being indefinite. Applicants traverse.

At page 2 of the Office Action, the Examiner asserts that the term “carbohydrate” use in the claims is inapt. However, the claims have been amended to be set forth in terms that are clear, definite and have full antecedent basis.

This rejection is overcome and withdrawal thereof is respectfully requested.

Conclusion

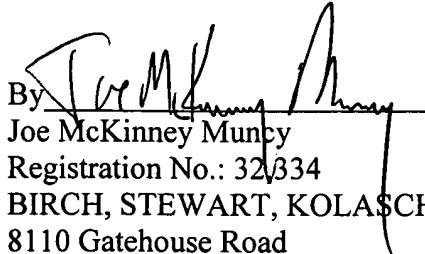
It is believed that a full and complete response has been made to the Office Action. Further prosecution of all the claims on the merits is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert E. Goozner, Ph.D., Registration No 42,593 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

REC
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